

REMARKS

This Amendment is in response to the Office Action mailed May 4, 2006. Claims 12 and 14 have been cancelled. Claims 1-11, 13, 15-22 are currently pending.

Initially the Examiner rejected claims 1 and 16 because the term "completely" was used to describe the claimed threaded bores. The last sentence of paragraph 22 makes it clear that bores 32-36 are threaded. Applicant has deleted "completely" thus making the claim language broader. Applicant has also amended claim 1 as suggested by the Examiner to clarify "the axis" in the last line.

The Examiner then rejected the claims over Orbay U.S. Patent 6,358,250. Applicant has amended the independent claims to require the cross bores to lie or be spaced along the longitudinal nail axis. This distinguishes over Orbay where the bores are perpendicular to the plate longitudinal axis. Orbay (U.S. 6,358,250) relates to a bone stabilizing implant for a broken wrist. In particular Orbay discloses a volar fixation system comprising a T-shaped plate, which is intended to be positioned against the volar side of the radial bone. The volar fixation system further comprises a plurality of bone screws for securing the plate along a non-fractured portion of the radial bone and a plurality of bone pegs, which extend from the plate into fragments of the radial bone.

By contrast to the present invention Orbay does not disclose a nail having a shaft with a longitudinal axis. Orbay merely describes a bone plate. It is obvious that the fixing procedure of a plate is completely different from a fixing procedure of a nail. For stabilizing a broken bone by means of a nail the implant is inserted into the bone marrow canal. By contrast thereto, for stabilizing a broken bone by means of a plate the implant is laterally attached to the broken bone.

Therefore, a person skilled in the art would not consider Orbay in order to improve the transmission of force to a humeral nail.

The main advantage of the described orientation of the transverse bores is that the transmission of force to the nail is configured in a favorable way. Further, longer bone screws may be used without completely penetrating the humeral bone such that a tighter fit of the humeral nail may be achieved. See paragraph [0005] of the application. These advantages for a bone nail are not suggested by Orbay

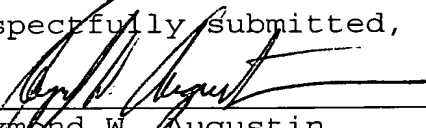
As it is believed that all of the rejections set forth in the Official Action have been fully met, favorable reconsideration and allowance are earnestly solicited.

If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that he/she telephone applicant's attorney at (908) 654-5000 in order to overcome any additional objections which he might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

Dated: August 4, 2006

Respectfully Submitted,

By 
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